

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Elliott D. Light and James C. P. Lum

Serial No.: 09/552,088

Group Art Unit:

Filed: 04/19/00

Examiner:

For: **A Method And Apparatus For Data Recipient Storage And Retrieval Of Data Using A Network Communication Device**

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Applicants respectfully ask that the above-identified application be made special because of actual infringement. See 37 C.F.R. section 1.102(d). A statement regarding the actual infringement is submitted herewith in the form of an Attorney's Statement Under M.P.E.P. section 708.02, II (A)-(C). The fee required by 37 C.F.R. section 1.17(i) has been included herewith.

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Respectfully submitted,

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JUL 14 2000

GROUP 2700

July 6, 2000

Atty. Docket No.: 2249



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A Network Communication Device**

ATTORNEY'S STATEMENT UNDER M.P.E.P. 708.02, II (A)-(C)


Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In support of a Petition to Make Special on the basis of actual infringement, I hereby
state the following:

- (A) That there are methods in use by eCode.Com and RTS Wireless discovered on
or about June 15, 2000 that infringe the claims in the pending application.
- (B) That a rigid comparison of the infringing methods with the claims of the
application has been made, and that, in my opinion, some of the claims are unquestionably
infringed (see Table 1 and claims analysis); and
- (C) That I have a good knowledge of the pertinent prior art.

Respectfully Submitted,


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1 Discussion of Determination of Infringement.

2
3 The invention describe in Application 09/552,088 allows "data subjects"
4 (including consumers) to purchase products or conduct other transactions over a
5 network and allows data recipients (including merchants) to receive information relating
6 to the transaction by having information relating to data subject pre-stored on a data
7 repository server and sent to the merchant. During the transaction, relevant information
8 is captured and sent to the data recipient relieving the data subject of the task of
9 entering the data each time a transaction is initiated.

10 The system of the present invention comprises a network communication device
11 associated with a data subject (the "data subject's NCD "), a computer associated with
12 a data recipient (the "data recipient's computer"), a gateway that connects the network
13 (such as a wireless network) to which the data subject's NCD communicates to the
14 network (the "NCD network) and over which the data repository and the data recipient's
15 computer are connected (the "NCD gateway"), and a server (the "data repository" data
16 repository) on which the necessary and desirable information about the data subject is
17 stored. The data subject's NCD, the data recipient's computer, the NCD gateway, and
18 the data repository are connected to a common network(such as the Internet) and
19 communicate using communication protocols. The data subject's NCD operates
20 software that can interpret and process files from the data recipient's computer and the
21 data repository (the "NCD software"). The data recipient's computer operates as a web
22 server, provides transaction processing, and performs other functions.

23 The present invention allows data subjects with NCDs operating on a network (the

1 "NCD network) to send transaction data over a network to which the data recipient
2 computer and the data repository are connected (the "common network") and allows data
3 recipients to receive data relating to that transaction if they are so authorized. In the
4 current language of ecommerce, the datastructures that store and retrieve data are
5 referred to as "wallets".

6 In the preferred embodiment of the invention, the transaction involves the purchase
7 of goods and services, the common network connecting the NCD gateway, the merchant's
8 computer, and the data repository is the Internet, and the transaction data is purchasing
9 data. However, the invention is not limited to this embodiment.

10 The determination of infringement for this petition is based on a release
11 (attachment 1) issued by eCode.com, Inc. (www.ecode.com) and available at
12 <http://www.ecode.com/press/businesswire/feb28.asp>. The press release announced
13 the joint undertaking of eCode.com and RTS Wireless. The eCode press release
14 describes a "wireless electronic wallet" that "greatly simplifies how goods and services
15 are purchased using wireless Internet devices." The operation of the eCode system is
16 described in the press release as follows:

17
18 "...Users of the wireless service can take advantage of the electronic wireless
19 wallet in the same way that PC-based Internet users do: select a unique,
20 permanent identifier (an eCode) and add personal contact information, including
21 credit card information, to their private and secure profile. Then, when using cell
22 phones connected to the Internet through an Advantage WAP Gateway to shop
23 online, users simply enter their eCode and password and press a key on the
24 phone to instruct the eCode wireless electronic wallet to conveniently and
25 securely provide the online merchant with their most up-to-date credit card and
26 shipping/billing information. Users avoid the tedium of having to enter the credit
27 card and shipping address information from the cell phone's keypad. Sensitive
28 personal and financial information is never transferred "over-the-air," and is
29 therefore secured with the same technology online Web shopping has always
30 employed."

1
2 The description maps directly to the system described in the 09/552,088 Application.
3 The "user" corresponds to the data subject. The cell phone is the NCD. The electronic
4 wallet provides the information relating to the user's credit card and shipping/billing
5 information, which is a reference to the data repository of the invention. (In a later
6 reference in the press release, the storage of the data in a "data repository" is made
7 clear: "... as the eCode.com Web site securely stores credit card and shipping/billing
8 information and transmits it to the merchant site upon user request"). The merchant
9 corresponds to the data recipient. The reference to "online Web shopping" in
10 conjunction with the statement that "Users of the wireless service can take advantage of
11 the electronic wireless wallet in the same way that PC-based Internet users do"
12 incorporates the use of a merchant web server, corresponding to the data recipient
13 computer described in 09/552,088 Application. The wireless network corresponds to
14 the NCD network. The Internet corresponds to the common network. The "Advantage
15 WAP Gateway", which connects the cell phone to the Internet, corresponds to the NCD
16 gateway.

17 Thus, the eCode system contains all of the elements of the system described in
18 the 09/552,088 Application and thus literally infringes certain of those claims and is
19 used to accomplish at least one of the objectives cited in that application.

20 A mapping of the eCode system against Claim 1 of the 09/552,088 Application is
21 shown in Table 1 (attached).
22

Cybercash

1 Table 1 - Infringement Comparison

APPLICANTS' CLAIM 1	eCode.Com and RTS Wireless
a first network;	Internet. This is the network connecting the merchant to eCode's data repository of consumer information.
and a second network;	Wireless network. eCode's business model is to permit consumer's to shop on the Internet using a cell phone.
and at least one data recipient computer associated with at least one data recipient and connected to the first network, wherein the at least one data recipient computer further comprises web server software for hosting a web page and for executing client software for allowing the at least one data recipient to send and receive information over the first network; and	An "online" merchant connected to the Internet. As described above, a web merchant requires a server and software to enable ecommerce.
at least one gateway connected to the first network and a second network wherein the at least one gateway further comprise gateway software for allowing the file exchange between the first and second networks; and	Cell phones on the wireless use Advantage® WAP™ Gateway to connect to the Internet. The RTS Advantage® WAP™ Gateway. The Advantage® System is described as providing "a host of advanced capabilities interfacing mobile subscribers with the Internet no matter what their device, device interface, network or protocol. The Company's Advantage System, including its WAP proxy server support a variety of innovative revenue-producing services; operate, monitor, control and protect service providers' wireless networks; and provide gateways between dissimilar networks to create unified messaging solutions."
at least one data subject network communication device (NCD) associated with at least one data subject and connected to the second network, wherein the at least one data subject NCD further comprises NCD software for accessing and communicating over the second network to the gateway and to send and receive information over the first network;	A user of wireless service uses a cell phone as an NCD. The cell phone is connected to the wireless network and to the Advantage® WAP™ Gateway allowing the user to access the Internet.
at least one data repository connected to the at least one gateway computer and to the at least one data recipient computer via the first network, wherein the at least one data repository further comprises data repository software, and wherein the client software further comprises instructions for forwarding a data recipient's offer to the at least one data repository via the gateway computer, the second network, and the NCD software and the data repository software further comprises instructions for gathering information to complete a transaction.	The eCode.com web site stores credit card and shipping/billing information and transmits it to merchant suite upon user request. The RTS Advantage System provides "gateways between dissimilar networks to create unified messaging solutions."

ECODE.COM ANNOUNCES WIRELESS ELECTRONIC WALLET FOR INTERNET CELL PHONES

Partnership with RTS Wireless Enables Cell Phone Users To Securely and Conveniently Shop on the Web

New Orleans, La. (February 28, 2000) Today at "Wireless 2000," eCode.com, the Internet User Identity CompanySM, introduced its wireless electronic wallet which greatly simplifies how goods and services are purchased using wireless Internet devices. Simultaneously, eCode and RTS Wireless announced a partnership through which RTS Wireless will incorporate eCode.com's electronic wallet technology into its Advantage[®] WAP[™] Gateway Internet infrastructure software.

Users of the wireless service can take advantage of the electronic wireless wallet in the same way that PC-based Internet users do: select a unique, permanent identifier (an eCode) and add personal contact information, including credit card information, to their private and secure profile. Then, when using cell phones connected to the Internet through an Advantage WAP Gateway to shop online, users simply enter their eCode and password and press a key on the phone to instruct the eCode wireless electronic wallet to conveniently and securely provide the online merchant with their most up-to-date credit card and shipping/billing information. Users avoid the tedium of having to enter the credit card and shipping address information from the cell phone's keypad. Sensitive personal and financial information is never transferred "over-the-air," and is therefore secured with the same technology online Web shopping has always employed.

1. "Wireless users want services that work. Wireless Internet portals want revenue producing e-commerce applications. e-businesses want to leverage existing infrastructure and user loyalty. And everyone wants security and convenience from the wireless Internet," said Brennan Hayden, Director of Strategic Initiatives for RTS Wireless. "The eCode.com application addresses all these value propositions. This service will greatly benefit wireless carriers who are implementing feature-rich Internet services and who need to provide subscribers with convenient mechanisms to shop online."

According to Tony Carmona, editor for the IGI Consulting Group, wireless Internet access devices are expected to reach 830 million by 2005. By 2003, more people will be accessing the Internet by mobile phones than by PCs. These devices include two-way pagers, personal-communications services, WAP (wireless application protocol) mobile phones and other devices.

"eCode.com's partnership with RTS Wireless provides an innovative solution for the new wave of mobile Internet users that are seeking to enhance their online shopping experience," said Rohit Chandra, eCode.com's president and CEO. "RTS Wireless, with its dozens of wireless carrier customers and their tens of millions of subscribers, was the logical partner for eCode to help launch its wireless strategy."

eCode.com Ensures Secure Wireless Transactions eCode.com ensures secure transactions using Secure Socket Layer (SSL) and Wireless Transport Layer Security (WTSL) to encrypt eCodes and passwords, making it extremely safe to send personal or sensitive information over a cell phone. Rather than sending credit card numbers and addresses through the cell phone, eCode wallet users need only enter their eCode and encrypted password, as the eCode.com Web site securely stores credit card and shipping/billing information and transmits it to the merchant site upon user request.

For a demonstration of this technology, visitors to the RTS Wireless booth, #4531, at the Wireless 2000 Show can meet eCode.com and actually shop online via cell phones provided at the booth.

eCode.com Offers Advanced Features for Simplified Web Browsing In addition to the tools offered by RTS Wireless, eCode.com offers its members a full suite of identity management tools. Its iBar™ browser companion includes a self-updating address book, calendar, bookmarks, electronic key chain (all the logins and passwords needed to access password-protected Web sites), electronic wallet, automatic form filler, search center, Web-stored user data files, weather, anti-virus scanning and over 300 popular destinations conveniently organized in tabs by category and subcategory.

The eCode concept was born in 1997 when Rohit Chandra returned from a tradeshow with stacks of business cards that needed to be entered into his contact database. He imagined thousands of show attendees sitting at their desks entering the same information, only to see it become out-of-date in a matter of months. Chandra decided there had to be a better method for keeping in touch.

The result was eCode.com, a service that has quickly become the Internet's hub for contact information. Each eCode.com member chooses a unique, permanent online user ID called an eCode. Connected to the eCode is all of the contact information the member chooses to provide. Members update their information as needed, and the address books of their contacts always stay up-to-date, without the duplicate effort previously required.

About RTS Wireless RTS Wireless is a leading provider of software and network systems, which are used to connect the Internet, Enterprise (Corporate) intranets, and other computer networks to any type of local or wide-area wireless voice or data network. The Company's wireless connectivity products are deployed as mission-critical network elements at many of the world's largest PCS, GSM, Cellular, Paging and Satellite carriers. RTS is based in Plainview, N.Y., with offices throughout the US and Europe. The RTS Advantage® System provides a host of advanced capabilities interfacing mobile subscribers with the Internet no matter what their device, device interface, network or protocol. The Company's Advantage System, including its WAP proxy server support a variety of innovative revenue-producing services; operate, monitor, control and protect service providers' wireless networks; and provide gateways between dissimilar networks to create unified messaging solutions.

For additional information on RTS Wireless, please visit <http://www.rtswireless.com> or call 516.939.6655 (US) / +44.(0).1908.255.929 (Europe).

About eCode.com Founded in 1997, eCode.com is the global leader in Internet user identity management. An eCode is a universal identifier that enables individuals to stay in contact with friends, colleagues and business contacts, while making the Internet experience quicker, more efficient and more secure.

eCode.com represents the voice of the Internet user by helping users distinguish themselves online with their own personal eCode. The free service offers productivity tools, such as a electronic wallet, self-updating address book, automatic form-filling, online graphical business cards and automatic login to their online accounts. Today, eCode members from over 120 countries use eCode.com to enhance their lives. The company, headquartered in Santa Clara, California, can be reached by eCode at eCodeInfo, on the Web at <http://www.eCode.com>, by email at info@eCode.com, by telephone at (408) 845-9400, and by mail at 2350 Mission College Blvd., Suite 777, Santa Clara, CA, 95054.

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